

## **Certificate of Compliance by Non-Participating Manufacturer Regarding Escrow Payment for the State of Nebraska**

### **GENERAL INFORMATION**

What is the definition of a Tobacco Product Manufacturer?

- Any entity that manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States including cigarettes that are intended to be sold in the United States through an importer;
- The first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or,
- A successor of any entity described above.

Who is required to file this certificate of compliance?

- Any non-participating tobacco product manufacturer which:
  - (1) sells cigarettes within the State of Nebraska (whether directly or through any distributor, retailer, or similar intermediary) and,
  - (2) has not become a participating manufacturer in the tobacco Master Settlement Agreement executed on 11/23/98 (the MSA).

If you satisfy these requirements, you must file this certificate of compliance to report the units of cigarettes manufactured by you and sold in the State of Nebraska and pay the amount calculated into your qualified escrow fund. Failure to do so may result in the initiation of civil litigation against you for injunctive relief and civil penalties.

What is a non-participating manufacturer?

A non-participating manufacturer is any Tobacco Product Manufacturer who has not signed onto the MSA .

What is a Qualified Escrow Fund?

A non-participating manufacturer that is required to file this certificate of compliance must establish a Qualified Escrow Fund. This means an escrow arrangement with a U.S. federal or U.S. state-chartered financial institution having no affiliation with any Tobacco Product Manufacturer and having assets of at least \$ 1,000,000,000, where such arrangement (1) requires that the financial institution hold the escrowed funds' principal separately for the benefit of the State of Nebraska and (2) prohibits the non-participating manufacturer from using, accessing, or directing the use of the funds' principal except as consistent with Neb. Rev. Stat. § 69-2703.

When must I make my escrow payment?

Unless a tobacco product manufacturer is required to make quarterly escrow deposits during the year in which the cigarettes are sold as specified in Neb. Rev. Stat. § 69-2708(4), escrow payments are due by April 15th for total units sold during the previous calendar year. Instructions regarding quarterly escrow deposits can be found on the Attorney General's website, [www.ago.state.ne.us](http://www.ago.state.ne.us), under Consumer Protection, Available Forms.

When is this certificate of compliance due?

The non-participating tobacco product manufacturer required to make escrow payments shall submit this certificate along with written proof of the deposit, such as a copy of the bank deposit slip or bank account statement, to the Attorney General's office by April 30th.

### SPECIFIC INSTRUCTIONS

Part 1: Manufacturer's Identification. Write your name, address, telephone and fax number.

Part 2: Sales Year. The sales year you are reporting for has been identified.

Part 3: Units Sold. Write the number of individual cigarettes manufactured by you and sold during the sales year in Nebraska. The definition of cigarette includes roll-your-own tobacco. (Nine hundredths of an ounce of roll-your-own tobacco shall constitute one individual cigarette.)

Part 4: Brands Sold. Write the names of all brands manufactured by you and sold in the State of Nebraska during the calendar year.

Part 5: Escrow Rates and Payment. Multiply the units sold by the statutory rate as adjusted for inflation for the sales year and write the result as your total. Deduct any quarterly deposits made during the sales year.

Part 6: Financial Institution. Write the name and address of the financial institution holding your escrow account. Include your escrow account number. Also write the total cumulative amount currently in your escrow account held for the benefit of the State of Nebraska.

Part 7: Signature by Authorized Designee. The person executing the Certificate must be an authorized representative of the Tobacco Product Manufacturer identified in Part 1. The Designee's name and title must be printed and the Certificate must be executed in the presence of an authorized notary.

**Certificate of Compliance by Non-Participating Manufacturer Regarding  
Escrow Payment for 2012 Sales**

**Part 1: Manufacturer's Identification**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

FAX: \_\_\_\_\_

E:mail Address: \_\_\_\_\_

**Part 2: Sales Year**

The Year of Sales for this Certificate of Compliance is: **2012**

**Part 3: Units Sold**

**(Cigarettes, including RYO, on which Nebraska cigarette excise tax was collected)**

Number of units sold by the Manufacturer identified above in Nebraska during calendar year 2012 is as follows:\_\_\_\_\_.

**Part 4: Brands Sold**

List the names of all brands manufactured which were sold in this state during calendar year 2012:

\_\_\_\_\_  
\_\_\_\_\_

**Part 5: Escrow Rates and Payments**

For cigarettes sold during calendar year 2012, the statutory escrow rate, as adjusted for inflation pursuant to Exhibit C of the Master Settlement Agreement, is \$0.0291058 per unit sold.

(a) Enter the total number from Part 3 here: \_\_\_\_\_.

(b) Multiply that amount by the \$ 0.0291058.

(c) Enter the total here: \_\_\_\_\_

(d) If quarterly escrow deposits were made during 2012 for 2012 sales, enter the total amount deposited into escrow for such quarterly deposits:  
\_\_\_\_\_.

(e) If quarterly deposits were made during 2012 for 2012 sales, subtract line (d) from line (c), and enter the total here: \_\_\_\_\_

The total amount on line (c) above, or if quarterly deposits into escrow were made in 2012 for 2012 sales, then the total amount on line (e) above, must be deposited on or before April 15, 2013, for cigarette sales during calendar year 2012.

**Note:** A copy of the bank receipt or other proof of deposit from the financial institution must be attached to verify the amount of the escrow deposit.

#### **Part 6: Financial Institution**

Name of Institution: \_\_\_\_\_

Address: \_\_\_\_\_

Escrow Account No: \_\_\_\_\_

Cumulative total amount held in this account for the State of Nebraska for all years:

#### **Part 7: Signature**

Under penalty of perjury, I state that all of the information contained in this Certificate of Compliance is true and accurate. This Certificate of Compliance must also be signed and dated by an authorized notary public.

Name of Authorized Designee: \_\_\_\_\_

Title: \_\_\_\_\_

Signature of Authorized Designee: \_\_\_\_\_

Date: \_\_\_\_\_

Subscribed and sworn to before me on this date: \_\_\_\_\_

Signature of Notary Public: \_\_\_\_\_

City or County of \_\_\_\_\_

My Commission expires: \_\_\_\_\_

Mail this Certificate of Compliance to:  
Office of the Nebraska Attorney General  
2115 State Capitol  
P.O. Box 98920  
Lincoln, NE 68509-8920  
Attn: Lynne R. Fritz